

Calendar No. 634

107TH CONGRESS
2D SESSION**S. 958****[Report No. 107-297]**

To provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, 326-K, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 24, 2001

Mr. REID (for himself and Mr. ENSIGN) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

OCTOBER 3, 2002

Reported by Mr. INOUE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, 326-K, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Western Shoshone
3 Claims Distribution Act”.

4 **SEC. 2. DISTRIBUTION OF DOCKET 326-K FUNDS.**

5 The funds appropriated in satisfaction of the judg-
6 ment award granted to the Western Shoshone Indians in
7 Docket Number 326-K before the Indian Claims Commis-
8 sion, including all earned interest, shall be distributed as
9 follows:

10 (1) The Secretary shall establish a Western
11 Shoshone Judgment Roll consisting of all Western
12 Shoshones who—

13 (A) have at least $\frac{1}{4}$ degree of Western
14 Shoshone Blood;

15 (B) are citizens of the United States; and

16 (C) are living on the date of enactment of
17 this Act.

18 (2) Any individual determined or certified as el-
19 igible by the Secretary to receive a per capita pay-
20 ment from any other judgment fund awarded by the
21 Indian Claims Commission, the United States
22 Claims Court, or the United States Court of Federal
23 Claims, that was appropriated on or before the date
24 of enactment of this Act, shall not be eligible for en-
25 rollment under this Act.

1 ~~(3)~~ The Secretary shall publish in the Federal
2 Register rules and regulations governing the estab-
3 lishment of the Western Shoshone Judgment Roll
4 and shall utilize any documents acceptable to the
5 Secretary in establishing proof of eligibility. The
6 Secretary's determination on all applications for en-
7 rollment under this paragraph shall be final.

8 (4) Upon completing the Western Shoshone
9 Judgment Roll under paragraph (1), the Secretary
10 shall make a per capita distribution of 100 percent
11 of the funds described in this section, in a sum as
12 equal as possible, to each person listed on the Roll.

13 ~~(5)(A)~~ With respect to the distribution of funds
14 under this section, the per capita shares of living
15 competent adults who have reached the age of 19
16 years on the date of the distribution provided for
17 under paragraph (4), shall be paid directly to them.

18 ~~(B)~~ The per capita shares of deceased individ-
19 uals shall be distributed to their heirs and legatees
20 in accordance with regulations prescribed by the
21 Secretary.

22 ~~(C)~~ The shares of legally incompetent individ-
23 uals shall be administered pursuant to regulations
24 and procedures established by the Secretary under

1 section 3(b)(3) of Public Law 93-134 (25 U.S.C.
2 1403(b)(3)).

3 (D) The shares of minors and individuals who
4 are under the age of 19 years on the date of the dis-
5 tribution provided for under paragraph (4) shall be
6 held by the Secretary in supervised individual Indian
7 money accounts. The funds from such accounts shall
8 be disbursed over a period of 4 years in payments
9 equaling 25 percent of the principal, plus the inter-
10 est earned on that portion of the per capita share.
11 The first payment shall be disbursed to individuals
12 who have reached the age of 18 years if such indi-
13 viduals are deemed legally competent. Subsequent
14 payments shall be disbursed within 90 days of the
15 individual's following 3 birthdays.

16 (6) All funds distributed under this Act are
17 subject to the provisions of section 7 of Public Law
18 93-134 (25 U.S.C. 1407).

19 (7) All per capita shares belonging to living
20 competent adults certified as eligible to share in the
21 judgment fund distribution under this section, and
22 the interest earned on those shares, that remain un-
23 paid for a period of 6-years shall be added to the
24 principal funds that are held and invested in accord-
25 ance with section 3, except that in the case of a

1 minor, such 6-year period shall not begin to run
 2 until the minor reaches the age of majority.

3 (8) Any other residual principal and interest
 4 funds remaining after the distribution under para-
 5 graph (4) is complete shall be added to the principal
 6 funds that are held and invested in accordance with
 7 section 3.

8 (9) Receipt of a share of the judgment funds
 9 under this section shall not be construed as a waiver
 10 of any existing treaty rights pursuant to the “1863
 11 Treaty of Ruby Valley”, inclusive of all Articles I
 12 through VIII, and shall not prevent any Western
 13 Shoshone Tribe or Band or individual Shoshone In-
 14 dian from pursuing other rights guaranteed by law.

15 **SEC. 3. DISTRIBUTION OF DOCKETS 326-A-1 AND 326-A-3.**

16 The funds appropriated in satisfaction of the judg-
 17 ment awards granted to the Western Shoshone Indians in
 18 Docket Numbers 326-A-1 and 326-A-3 before the
 19 United States Court of Claims, and the funds referred to
 20 under paragraphs (7) and (8) of section 2, together with
 21 all earned interest, shall be distributed as follows:

22 (1)(A) Not later than 120 days after the date
 23 of enactment of this Act, the Secretary shall estab-
 24 lish in the Treasury of the United States a trust
 25 fund to be known as the “Western Shoshone Edu-

1 eational Trust Fund” for the benefit of the Western
 2 Shoshone members. There shall be credited to the
 3 Trust Fund the funds described in the matter pre-
 4 ceeding this paragraph.

5 (B) The principal in the Trust Fund shall not
 6 be expended or disbursed. The Trust Fund shall be
 7 invested as provided for in section 1 of the Act of
 8 June 24, 1938 (25 U.S.C. 162a).

9 (C)(i) All accumulated and future interest and
 10 income from the Trust Fund shall be distributed;
 11 subject to clause (ii)—

12 (I) as educational grants and as other
 13 forms of educational assistance determined
 14 appropriate by the Administrative Com-
 15 mittee established under paragraph (2) to
 16 individual Western Shoshone members as
 17 required under this Act; and

18 (II) to pay the reasonable and nec-
 19 essary expenses of such Administrative
 20 Committee (as defined in the written rules
 21 and procedures of such Committee).

22 (ii) Funds shall not be distributed under this
 23 paragraph on a per capita basis.

24 (2)(A) An Administrative Committee to oversee
 25 the distribution of the educational grants and assist-

1 ance authorized under paragraph (1)(C) shall be es-
 2 tablished as provided for in this paragraph.

3 (B) The Administrative Committee shall consist
 4 of 1 representative from each of the following orga-
 5 nizations:

6 (i) The Western Shoshone Te-Moak Tribe.

7 (ii) The Duckwater Shoshone Tribe.

8 (iii) The Yomba Shoshone Tribe.

9 (iv) The Ely Shoshone Tribe.

10 (v) The Western Shoshone Business Coun-
 11 cil of the Duck Valley Reservation.

12 (vi) The Fallon Band of Western Sho-
 13 shone.

14 (vii) The at large community.

15 (C) Each member of the Committee shall serve
 16 for a term of 4 years. If a vacancy remains unfilled
 17 in the membership of the Committee for a period in
 18 excess of 60 days, the Committee shall appoint a re-
 19 placement from among qualified members of the or-
 20 ganization for which the replacement is being made
 21 and such member shall serve until the organization
 22 to be represented designates a replacement.

23 (D) The Secretary shall consult with the Com-
 24 mittee on the management and investment of the
 25 funds subject to distribution under this section.

1 (E) The Committee shall have the authority to
2 disburse the accumulated interest fund under this
3 Act in accordance with the terms of this Act. The
4 Committee shall be responsible for ensuring that the
5 funds provided through grants and assistance under
6 paragraph (1)(C) are utilized in a manner consistent
7 with the terms of this Act. In accordance with para-
8 graph (1)(C)(i)(II), the Committee may use a por-
9 tion of the interest funds to pay all of the reasonable
10 and necessary expenses of the Committee, including
11 per diem rates for attendance at meetings that are
12 the same as those paid to Federal employees in the
13 same geographic location.

14 (F) The Committee shall develop written rules
15 and procedures that include such matters as oper-
16 ating procedures, rules of conduct, eligibility criteria
17 for receipt of educational grants or assistance (such
18 criteria to be consistent with this Act), application
19 selection procedures, appeal procedures, fund dis-
20 bursement procedures, and fund recoupment proce-
21 dures. Such rules and procedures shall be subject to
22 the approval of the Secretary. A portion of the inter-
23 est funds in the Trust Fund, not to exceed
24 \$100,000, may be used by the Committee to pay the
25 expenses associated with developing such rules and

1 procedures. At the discretion of the Committee, and
 2 with the approval of the appropriate tribal governing
 3 body, jurisdiction to hear appeals of the Committee's
 4 decisions may be exercised by a tribal court, or a
 5 court of Indian offenses operated under section 11
 6 of title 25, Code of Federal Regulations.

7 (G) The Committee shall employ an inde-
 8 pendent certified public accountant to prepare an
 9 annual financial statement that includes the oper-
 10 ating expenses of the Committee and the total
 11 amount of educational grants or assistance dis-
 12 bursed for the fiscal year for which the statement is
 13 being prepared under this section. The Committee
 14 shall compile a list of names of all individuals ap-
 15 proved to receive such grants or assistance during
 16 such fiscal year. The financial statement and the list
 17 shall be distributed to each organization represented
 18 on the Committee and the Secretary and copies shall
 19 be made available to the Western Shoshone members
 20 upon request.

21 **SEC. 4. DEFINITIONS.**

22 In this Act:

23 (1) ADMINISTRATIVE COMMITTEE; COM-
 24 MITTEE.—The terms “Administrative Committee”

1 and “Committee” mean the Administrative Com-
 2 mittee established under section 3(2).

3 ~~(2) SECRETARY.—The term “Secretary” means~~
 4 ~~the Secretary of the Interior.~~

5 ~~(3) TRUST FUND.—The term “Trust Fund”~~
 6 ~~means the Western Shoshone Educational Trust~~
 7 ~~Fund established under section 3(1).~~

8 ~~(4) WESTERN SHOSHONE MEMBERS.—The term~~
 9 ~~“Western Shoshone members” means an individual~~
 10 ~~who appears on the Western Shoshone Judgment~~
 11 ~~Roll established under section 2(1), or an individual~~
 12 ~~who is the lineal descendant of an individual appear-~~
 13 ~~ing on the roll, and who—~~

14 ~~(A) satisfies all eligibility criteria estab-~~
 15 ~~lished by the Administrative Committee under~~
 16 ~~section 3(F);~~

17 ~~(B) fulfills all application requirements es-~~
 18 ~~tablished by the Committee; and~~

19 ~~(C) agrees to utilize funds distributed in~~
 20 ~~accordance with section 3(1)(C)(i)(I) in a man-~~
 21 ~~ner approved by the Committee for educational~~
 22 ~~purposes.~~

23 **SEC. 5. REGULATIONS.**

24 The Secretary may promulgate such regulations as
 25 are necessary to carry out this Act.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Western Shoshone*
3 *Claims Distribution Act”.*

4 **SEC. 2. DISTRIBUTION OF DOCKET 326-K FUNDS.**

5 *The funds appropriated in satisfaction of the judgment*
6 *award granted to the Western Shoshone Indians in Docket*
7 *Number 326-K before the Indian Claims Commission, in-*
8 *cluding all earned interest, shall be distributed as follows:*

9 (1) *The Secretary shall establish a Western Sho-*
10 *shone Judgment Roll consisting of all Western Sho-*
11 *shones who—*

12 (A) *have at least 1/4 degree of Western Sho-*
13 *shone Blood;*

14 (B) *are citizens of the United States; and*

15 (C) *are living on the date of enactment of*
16 *this Act.*

17 (2) *Any individual determined or certified as el-*
18 *igible by the Secretary to receive a per capita pay-*
19 *ment from any other judgment fund awarded by the*
20 *Indian Claims Commission, the United States Claims*
21 *Court, or the United States Court of Federal Claims,*
22 *that was appropriated on or before the date of enact-*
23 *ment of this Act, shall not be eligible for enrollment*
24 *under this Act.*

25 (3) *The Secretary shall publish in the Federal*
26 *Register rules and regulations governing the establish-*

1 *ment of the Western Shoshone Judgment Roll and*
2 *shall utilize any documents acceptable to the Sec-*
3 *retary in establishing proof of eligibility. The Sec-*
4 *retary's determination on all applications for enroll-*
5 *ment under this paragraph shall be final.*

6 *(4) Upon completing the Western Shoshone*
7 *Judgment Roll under paragraph (1), the Secretary*
8 *shall make a per capita distribution of 100 percent*
9 *of the funds described in this section, in a sum as*
10 *equal as possible, to each person listed on the Roll.*

11 *(5)(A) With respect to the distribution of funds*
12 *under this section, the per capita shares of living*
13 *competent adults who have reached the age of 19*
14 *years on the date of the distribution provided for*
15 *under paragraph (4), shall be paid directly to them.*

16 *(B) The per capita shares of deceased individ-*
17 *uals shall be distributed to their heirs and legatees in*
18 *accordance with regulations prescribed by the Sec-*
19 *retary.*

20 *(C) The shares of legally incompetent individuals*
21 *shall be administered pursuant to regulations and*
22 *procedures established by the Secretary under section*
23 *3(b)(3) of Public Law 93-134 (25 U.S.C. 1403(b)(3)).*

24 *(D) The shares of minors and individuals who*
25 *are under the age of 19 years on the date of the dis-*

1 *tribution provided for under paragraph (4) shall be*
 2 *held by the Secretary in supervised individual Indian*
 3 *money accounts. The funds from such accounts shall*
 4 *be disbursed over a period of 4 years in payments*
 5 *equaling 25 percent of the principal, plus the interest*
 6 *earned on that portion of the per capita share. The*
 7 *first payment shall be disbursed to individuals who*
 8 *have reached the age of 18 years if such individuals*
 9 *are deemed legally competent. Subsequent payments*
 10 *shall be disbursed within 90 days of the individual's*
 11 *following 3 birthdays.*

12 *(6) Notwithstanding section 7 of the Indian*
 13 *Tribal Judgment Funds Use or Distribution Act (25*
 14 *U.S.C. 1407), the per capita shares (or the avail-*
 15 *ability of those shares) shall not—*

16 *(A) be subject to Federal or State income*
 17 *taxation;*

18 *(B) be considered to be income or resources;*

19 *or*

20 *(C) be used as a basis for denying or reduc-*
 21 *ing financial assistance or any other benefit to*
 22 *which a household or member would otherwise be*
 23 *entitled under—*

24 *(i) the Social Security Act (42 U.S.C.*
 25 *301 et seq.); or*

1 (ii) any other Federal or federally-as-
2 sisted program.

3 (7) All per capita shares belonging to living
4 competent adults certified as eligible to share in the
5 judgment fund distribution under this section, and
6 the interest earned on those shares, that remain un-
7 paid for a period of 6-years shall be added to the
8 principal funds that are held and invested in accord-
9 ance with section 3, except that in the case of a
10 minor, such 6-year period shall not begin to run until
11 the minor reaches the age of majority.

12 (8) Any other residual principal and interest
13 funds remaining after the distribution under para-
14 graph (4) is complete shall be added to the principal
15 funds that are held and invested in accordance with
16 section 3.

17 **SEC. 3. DISTRIBUTION OF DOCKETS 326-A-1 AND 326-A-3.**

18 The funds appropriated in satisfaction of the judgment
19 awards granted to the Western Shoshone Indians in Docket
20 Numbers 326-A-1 and 326-A-3 before the United States
21 Court of Claims, and the funds referred to under para-
22 graphs (7) and (8) of section 2, together with all earned
23 interest, shall be distributed as follows:

24 (1)(A) Not later than 120 days after the date of
25 enactment of this Act, the Secretary shall establish in

1 *the Treasury of the United States a trust fund to be*
 2 *known as the “Western Shoshone Educational Trust*
 3 *Fund” for the benefit of the Western Shoshone mem-*
 4 *bers. There shall be credited to the Trust Fund the*
 5 *funds described in the matter preceding this para-*
 6 *graph.*

7 *(B) The principal in the Trust Fund shall not*
 8 *be expended or disbursed. The Trust Fund shall be in-*
 9 *vested as provided for in section 1 of the Act of June*
 10 *24, 1938 (25 U.S.C. 162a).*

11 *(C)(i) All accumulated and future interest and*
 12 *income from the Trust Fund shall be distributed, sub-*
 13 *ject to clause (ii)—*

14 *(I) as educational grants and as other*
 15 *forms of educational assistance determined*
 16 *appropriate by the Administrative Com-*
 17 *mittee established under paragraph (2) to*
 18 *individual Western Shoshone members as*
 19 *required under this Act; and*

20 *(II) to pay the reasonable and nec-*
 21 *essary expenses of such Administrative*
 22 *Committee (as defined in the written rules*
 23 *and procedures of such Committee).*

24 *(ii) Funds shall not be distributed under this*
 25 *paragraph on a per capita basis.*

1 (2)(A) *An Administrative Committee to oversee*
2 *the distribution of the educational grants and assist-*
3 *ance authorized under paragraph (1)(C) shall be es-*
4 *tablished as provided for in this paragraph.*

5 (B) *The Administrative Committee shall consist*
6 *of 1 representative from each of the following organi-*
7 *zations:*

8 (i) *The Western Shoshone Te-Moak Tribe.*

9 (ii) *The Duckwater Shoshone Tribe.*

10 (iii) *The Yomba Shoshone Tribe.*

11 (iv) *The Ely Shoshone Tribe.*

12 (v) *The Western Shoshone Committee of the*
13 *Duck Valley Reservation.*

14 (vi) *The Fallon Band of Western Shoshone.*

15 (vii) *The at large community.*

16 (C) *Each member of the Committee shall serve*
17 *for a term of 4 years. If a vacancy remains unfilled*
18 *in the membership of the Committee for a period in*
19 *excess of 60 days, the Committee shall appoint a re-*
20 *placement from among qualified members of the orga-*
21 *nization for which the replacement is being made and*
22 *such member shall serve until the organization to be*
23 *represented designates a replacement.*

1 (D) *The Secretary shall consult with the Com-*
2 *mittee on the management and investment of the*
3 *funds subject to distribution under this section.*

4 (E) *The Committee shall have the authority to*
5 *disburse the accumulated interest fund under this Act*
6 *in accordance with the terms of this Act. The Com-*
7 *mittee shall be responsible for ensuring that the funds*
8 *provided through grants and assistance under para-*
9 *graph (1)(C) are utilized in a manner consistent with*
10 *the terms of this Act. In accordance with paragraph*
11 *(1)(C)(i)(II), the Committee may use a portion of the*
12 *interest funds to pay all of the reasonable and nec-*
13 *essary expenses of the Committee, including per diem*
14 *rates for attendance at meetings that are the same as*
15 *those paid to Federal employees in the same geo-*
16 *graphic location.*

17 (F) *The Committee shall develop written rules*
18 *and procedures that include such matters as oper-*
19 *ating procedures, rules of conduct, eligibility criteria*
20 *for receipt of educational grants or assistance (such*
21 *criteria to be consistent with this Act), application se-*
22 *lection procedures, appeal procedures, fund disburse-*
23 *ment procedures, and fund recoupment procedures.*
24 *Such rules and procedures shall be subject to the ap-*
25 *proval of the Secretary. A portion of the interest*

1 *funds in the Trust Fund, not to exceed \$100,000, may*
2 *be used by the Committee to pay the expenses associ-*
3 *ated with developing such rules and procedures. At*
4 *the discretion of the Committee, and with the ap-*
5 *proval of the appropriate tribal governing body, juris-*
6 *diction to hear appeals of the Committee's decisions*
7 *may be exercised by a tribal court, or a court of In-*
8 *dian offenses operated under section 11 of title 25,*
9 *Code of Federal Regulations.*

10 *(G) The Committee shall employ an independent*
11 *certified public accountant to prepare an annual fi-*
12 *nancial statement that includes the operating ex-*
13 *penses of the Committee and the total amount of edu-*
14 *cational grants or assistance disbursed for the fiscal*
15 *year for which the statement is being prepared under*
16 *this section. The Committee shall compile a list of*
17 *names of all individuals approved to receive such*
18 *grants or assistance during such fiscal year. The fi-*
19 *nancial statement and the list shall be distributed to*
20 *each organization represented on the Committee and*
21 *the Secretary and copies shall be made available to*
22 *the Western Shoshone members upon request.*

23 **SEC. 4. DEFINITIONS.**

24 *In this Act:*

1 (1) *ADMINISTRATIVE COMMITTEE; COMMITTEE.*—
 2 *The terms “Administrative Committee” and “Com-*
 3 *mittee” mean the Administrative Committee estab-*
 4 *lished under section 3(2).*

5 (2) *SECRETARY.*—*The term “Secretary” means*
 6 *the Secretary of the Interior.*

7 (3) *TRUST FUND.*—*The term “Trust Fund”*
 8 *means the Western Shoshone Educational Trust Fund*
 9 *established under section 3(1).*

10 (4) *WESTERN SHOSHONE MEMBERS.*—*The term*
 11 *“Western Shoshone members” means an individual*
 12 *who appears on the Western Shoshone Judgment Roll*
 13 *established under section 2(1), or an individual who*
 14 *is the lineal descendant of an individual appearing*
 15 *on the roll, and who—*

16 (A) *satisfies all eligibility criteria estab-*
 17 *lished by the Administrative Committee under*
 18 *section 3(F);*

19 (B) *fulfills all application requirements es-*
 20 *tablished by the Committee; and*

21 (C) *agrees to utilize funds distributed in ac-*
 22 *cordance with section 3(1)(C)(i)(I) in a manner*
 23 *approved by the Committee for educational pur-*
 24 *poses.*

1 **SEC. 5. REGULATIONS.**

2 *The Secretary may promulgate such regulations as are*
3 *necessary to carry out this Act.*

Calendar No. 634

107TH CONGRESS
2D SESSION

S. 958

[Report No. 107-297]

A BILL

To provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, 326-K, and for other purposes.

OCTOBER 3, 2002

Reported with an amendment